

## REMARKS

Claims 1 through 11 are pending in the application. Claims 1 and 5 are amended above.

In the Office Action, claims 1 through 11 were rejected as being unpatentable over U.S. Patent No. 6,609,106 ("Robertson") in view of "DM News."

In making this rejection, the Office Action notes that Robertson does not "disclose fulfilling orders over a period of time or predetermined time period," but that DM News teaches "a delivery program where flowers can be ordered once or a part of a monthly subscription series with 3-, 6-, and 12-month programs available." The Office Action then concludes that it would have been obvious to modify Robertson "to include interval-based delivery of perishable goods, in order to maximize customer usage and enjoyment at peak product freshness, and thereby attract registrants to the commerce service."

The applicant respectfully challenges certain aspects of Office Action's conclusion, specifically that it suggests that the claimed invention is an "interval-based" delivery service. The type of interval basis involved in the DM News reference is a regular, periodic "subscription"-type of arrangement in which the "intervals" are dictated by the service provider. The recipient can specify only how long his or her "subscription" will last.

The applicant's invention is much different, because it involves *recipient*-specified delivery schedules, not provider-specified ones. Unlike the references discussed in the Office Action, the present invention allows a recipient to control the timing of delivery. For example, a person who is about to undergo a surgical procedure that can be expected to entail a critical period of post-operative incapacity followed by an extended recuperation period can avoid having perishable items such as flowers delivered during the former period, during which time they might not be able to appreciate them, but instead defer their delivery until conditions have improved for the patient. Likewise, a couple who is to be married can defer delivery of wedding gifts until after a honeymoon, rather than have such gifts, which might be perishable, delivered

during the honeymoon. Neither Robertson nor DM News speaks to this very desirable feature of the present invention.

The Applicant has amended the claims in the application to call out this distinction between his invention and the prior art. Reconsideration of the application as amended is therefore requested. If the Examiner believes that additional or alternative amendments might place the application in better condition for allowance, he is invited to contact the Applicant directly at (713) 444-2483.

Respectfully submitted,



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